

powerex.

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20 YEARS

Powerex Corp.
Suite 1400 - 666 Burrard Street
Vancouver BC Canada V6C 2X8

604 891 5000 PHONE
800 220 4907 TOLL FREE
www.powerex.com

October 22, 2008

Department of Energy, OE-20
Office of Electricity Delivery and Energy Reliability
1000 Independence Avenue, S.W.
Washington, D.C.
20585

Attention: Ms. Ellen Russell, Senior Project Manager

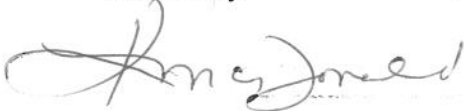
Dear Ms. Russell:

Re: Renewal Application for Authorization to Transmit Electric Energy to Mexico

Enclosed for filing on behalf of Powerex Corp. ("Powerex") is an original and 2 copies of an Application for Renewal of Authorization to export electricity from the United States to Mexico. Also enclosed is a check in the amount of \$500.00 as the filing fee for this application.

Please contact me if you have any questions regarding this application.

Yours truly,



Karen McDonald,
Trade Policy

phone: 604.895.7030

fax: 604.895.7012

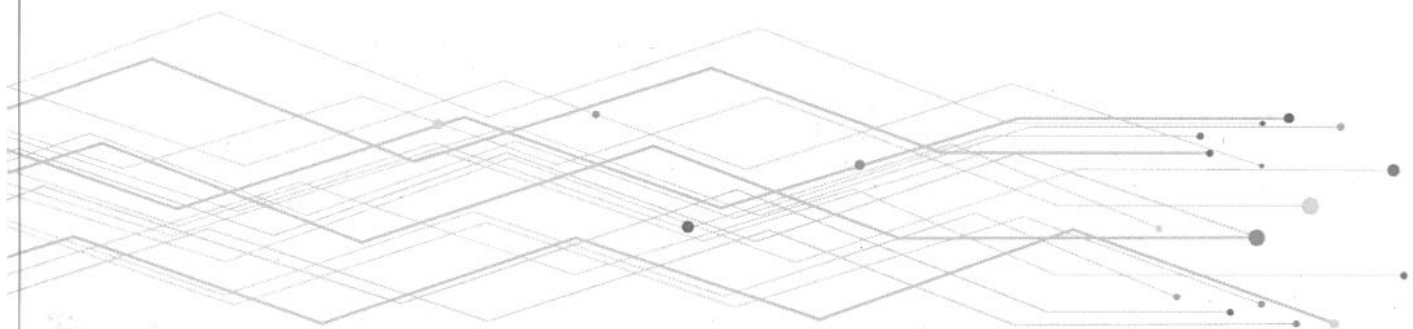
e-mail: karen.mcdonald@powerex.com

Enclosures.

US Department of Energy

OCT 23 2008

Electricity, Delivery and Energy Reliability



OCT 23 2008

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF ELECTRICITY DELIVERY AND ENERGY RELIABILITY

Electricity Delivery and Energy Reliability

POWEREX CORP.

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OE Docket No. EA- 145-D

APPLICATION OF POWEREX CORP.
FOR RENEWAL OF AUTHORIZATION
TO TRANSMIT ELECTRIC ENERGY TO MEXICO

Mr. Mike MacDougall
Director, Trade Policy
Powerex Corp.
666 Burrard Street, Suite 1400
Vancouver, British Columbia
Canada V6C 2X8
Phone: (604) 891.5000
Fax: (604) 891.5015

Ms. Karen McDonald
Senior Trade Policy Analyst
Powerex Corp.
666 Burrard Street, Suite 1400
Vancouver, British Columbia
Canada V6C 2X8
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21 October 2008

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF ELECTRICITY DELIVERY AND ENERGY RELIABILITY

IN THE MATTER OF

POWEREX CORP.

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)
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OE Docket No. EA – 145-D

APPLICATION OF POWEREX CORP.
FOR RENEWAL OF AUTHORIZATION TO
TRANSMIT ELECTRIC ENERGY TO MEXICO

Powerex Corp. ("Powerex"), pursuant to Section 202(e) of the Federal Power Act ("FPA"), 16 U.S.C. 824a(e), and Subpart W of Part 205 of the regulations thereunder, 10 C.F.R. 205.300, *et. seq.*, hereby files its Application for Renewal of Authorization to export electricity from the United States to Mexico. In support of this Application, Powerex respectfully states as follows:

1.
INTRODUCTION

On May 30, 1997, the United States Department of Energy, Office of Fossil Energy ("DOE") issued Order No. EA-145 authorizing Powerex to export electric energy to Mexico as a power marketer for a two year term ending May 30, 1999.¹ In 1999 and again in 2001, in Order Nos. EA-145-A and EA-145-B, the DOE renewed Powerex's authority to export electric energy for an additional two-year term. On April 26, 2004, in Order No. EA-145-C, the DOE renewed Powerex's export authorization for a five-year period ending April 26, 2009.

Powerex requests herein that it be authorized to export electricity from the United States to Mexico for an additional five year period that would end five years after the effective date of such approved extension.

¹ *British Columbia Power Exchange Corp.*, FE Docket No. EA-145 (May 30, 1997). In September 2000, the British Columbia Power Exchange Corp. changed its name to Powerex Corp.

2.
DESCRIPTION OF POWEREX

The exact legal name of Powerex is Powerex Corp. Powerex is a corporation organized under the *Business Corporations Act* of British Columbia, with its principal place of business at 666 Burrard Street, Suite 1400, Vancouver, British Columbia, Canada, V6C 2X8. As the wholly-owned marketing subsidiary of the British Columbia Hydro and Power Authority ("BC Hydro")², a provincial Crown Corporation owned by the Government of British Columbia, Powerex is an instrumentality of a foreign state under the Foreign Sovereign Immunities Act.³

Powerex sells power at wholesale from a portfolio of resources, including capability from BC Hydro system resources, the Canadian Entitlement made available under the Columbia River Treaty, and power acquired from other sellers within the United States and Canada. Powerex markets such power to customers in other Canadian provinces and to customers in the United States and Mexico.⁴

3.
COMMUNICATIONS

Communications regarding this application should be addressed to the following:

Mr. Mike MacDougall
Director, Trade Policy
Powerex Corp.
666 Burrard Street, Suite 1400
Vancouver, British Columbia
Canada V6C 2X8
Phone: (604) 891.5000
Fax: (604) 891.5015

² BC Hydro is a public utility regulated by the British Columbia Utilities Commission (the "BCUC") under the Utilities Commission Act [RSBC, c.473].

³ 28 U.S.C. 1602, *et seq.*

⁴ Powerex's wholesale sales in the US are made pursuant to market-based rate authority originally granted by the Federal Energy Regulatory Commission ("FERC") on September 24, 1997, and most recently reaffirmed by Letter Order dated July 26, 2007. See *British Columbia Power Exchange Corp.*, 80 FERC 61,343 (1997); *British Columbia Power Exchange Corp.*, Letter order issued in Docket No. ER97-4024-012 (Sept 12, 2000); *Powerex Corp.*, Letter order issued in Docket No. ER01-48-002 (Oct. 30, 2003); *Powerex Corp.*, Letter order issued in Docket No. ER01-48-007 (July 26, 2007). Powerex also makes sales at retail to US industrial customers at US points of delivery.

Ms. Karen McDonald
Senior Trade Policy Analyst
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Deanna E. King
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Tracey L. Bradley
Bracewell and Giuliani, LLP,
2000 K Street, N. W., Suite 500
Washington, D.C., 20006,
Phone: (202) 828.5800
Fax: (202) 857.2133

4.

JURISDICTION

The authority requested of DOE by Powerex is a necessary condition for exporting under section 202(e) of the FPA.

Powerex has obtained or will obtain all necessary Canadian federal and provincial authorizations to effect any proposed export that involves electricity sourced in Canada. No other known federal, state or local government has jurisdiction over the actions to be taken under the authority sought in this Application.

5.

RENEWAL AUTHORIZATION AND TECHNICAL DISCUSSION

By this Application, Powerex seeks authorization to continue to transmit electric energy, on either a firm or interruptible basis to Mexico. Powerex desires to continue its exports of electrical energy acquired from Canadian and/or US generating sources to Mexico over international electric transmission facilities. Such sales would continue to be made in foreign commerce at the US – Mexico border. Transmission to the point of delivery will be arranged by Powerex over the international electric transmission facilities owned and operated by San Diego Gas & Electric Company as set out in Attachment 1.

Powerex is a power marketer. It owns no generation resources, and it has no franchised service area or native load obligation. In addition, Powerex has no transmission "system" of its own on which its exports of power could have a reliability or stability impact. Powerex will purchase the power to be exported to Mexico from BC Hydro or other Canadian utilities, from other power marketers, from independent power producers, or from US electric utilities and federal power marketing agencies as those terms are defined in Sections 3 (22) and 3 (19) of the FPA. That purchased power will be transmitted over third party facilities in the US for delivery over an international transmission facility at the US-Mexico border. Powerex will schedule its exports in compliance with all applicable reliability criteria, standards and guides as are set out by the North American Electricity Reliability Corporation (or any successor organization) ("NERC") and regional reliability councils and as are applied by domestic transmission providers.

As noted above, Powerex is a power marketer, and does not own or operate a transmission system. Accordingly, Powerex does not have the ability to cause a violation of the terms and conditions contained in the existing authorizations associated with the international transmission facilities identified in Attachment 1. Specifically, Powerex does not have the ability to cause total exports on Presidential Permit facilities to exceed the authorized instantaneous transmission rate.

6. **ANALYSIS**

Powerex respectfully submits that granting its renewal Application to export electric power continues to meet the two-prong standard set out in section 202(e) of the FPA.

As a power marketer, Powerex's portfolio of electric power is purchased from various entities inside and outside the US. The electric energy Powerex will export, either on a firm or interruptible basis, will be surplus to the system of the third party generator from whom such power will be purchased. The DOE has repeatedly recognized that, with no native load obligations, power marketers are free to sell electric energy from their portfolios on the open market in the US or, by way of export, in Canada or Mexico. Because Powerex is a marketer with no native load obligations and because the power it purchases will be surplus to the needs of its third party suppliers, Powerex's exports meet the first statutory criterion of section 202(e).

Second, the requested exports will not impede or tend to impede the coordination in the public interest of facilities subject to the jurisdiction of the FERC. The DOE has interpreted this statutory requirement as one of operational reliability of the US transmission system. Powerex will be obtaining transmission service for exports to Mexico from US transmission providers that are subject to FERC's open access transmission policies as prescribed in Order Nos. 888 and 890. Further, Powerex will schedule its exports in compliance with all applicable reliability criteria, standards and guides as are set out by NERC and regional reliability councils and as are applied by domestic transmission providers. Powerex will also separately obtain all necessary authorizations, both regulatory and contractual, to wheel power over transmission facilities for the delivery to the Mexican border. Additionally, Powerex will submit to DOE the reports the agency requires of marketers possessing export authorization. In assessing this statutory requirement, the DOE has repeatedly concluded that the existing industry procedures for obtaining transmission capacity on the US's domestic transmission system provide adequate assurances that a particular export will not cause an operational reliability problem. Accordingly, the authorization requested herein can be granted with full assurance that there will be no adverse impact on operational reliability.

7. **CONSISTENCY WITH LAWS**

Authorization of the exports proposed by Powerex is consistent with NAFTA and US energy policy and will foster development of a more efficient and competitive North American energy market. Powerex will conduct all operations pursuant to this Authorization in accordance with the provisions of the FPA and pertinent rules, regulations and orders adopted or issued thereunder, and in conformity with the reliability criteria, standards and guidelines of the North American Electric Reliability Corporation, regional reliability councils, and control area operator(s), including any applicable regional transmission organizations or independent system operators.

Powerex believes that DOE is not required to conduct an environmental assessment or an environmental impact statement in connection with this Application

and that DOE's approval of this Application is eligible for categorical exclusion under Appendix B to Subpart D, paragraph B4.2 of the revised DOE regulations implementing the National Environmental Policy Act of 1969.

8.
EXHIBITS

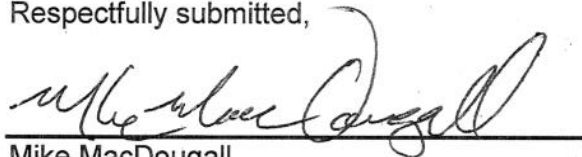
The following Exhibits are attached hereto:

- | | |
|-------------------|--|
| <u>Exhibit A:</u> | Agreements
(Not applicable) |
| <u>Exhibit B:</u> | Legal Opinion of Powerex's Counsel |
| <u>Exhibit C:</u> | Maps
(Not applicable) |
| <u>Exhibit D:</u> | Power of Attorney |
| <u>Exhibit E:</u> | Statement of any Corporate Relationship or Existing Contract
which in any way Relates to Control or Fixing of Rates for the
Purchase, Sale or Transmission of Electric Energy.
(Not applicable) |
| <u>Exhibit F:</u> | Operating Procedures Regarding Available Capacity and Energy
(Not applicable) |

9.
CONCLUSION

WHEREFORE, Powerex requests that DOE grant this Application as requested herein. Powerex is willing to provide any additional information DOE may require to expedite review and approval of this renewal Application.

Respectfully submitted,



Mike MacDougall
Director, Trade Policy
Powerex Corp.
666 Burrard Street, Suite 1400
Vancouver, British Columbia
Canada V6C 2X8

ATTACHMENT 1

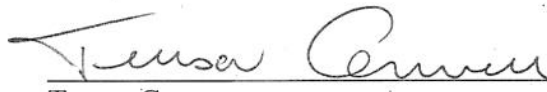
UNITED STATES INTERCONNECTIONS WITH MEXICO

Location	Voltage	Owner	Presidential Permit No.
Miguel, California	230 kV	San Diego Gas & Electric Company	PP-68
Imperial Valley, California	230 kV	San Diego Gas & Electric Company	PP-79

October 21, 2008

VERIFICATION OF APPLICATION

I, Teresa Conway, having knowledge of the matters set forth in the above Application of Powerex Corp. for Renewal of Authorization to Transmit Electric Energy to Mexico, hereby verify that the contents thereof are true and correct to the best of my knowledge and belief.



Teresa Conway
President and Chief Executive Officer

SUBSCRIBED AND SWORN before me, a notary public in and for the Province of British Columbia, this 21 day of October 2008.



Jay Ratzlaff

My Commission does not expire.

EXHIBIT A

**Agreements
(Not applicable)**

EXHIBIT B

Opinion of Counsel

LEGAL OPINION

The following opinion is given in support of the Application of Powerex for Renewal of Authorization to Transmit Electric Energy to Mexico, dated October 21, 2008.

- 1) I am a barrister and solicitor at law, authorized to practice law in the Province of British Columbia;
- 2) I am employed as Legal Counsel for Powerex;
- 3) Powerex, is duly incorporated, validly existing and in good standing under the laws of the *Business Corporations Act* of British Columbia and I believe will take those actions required for it to do business authorized in the States in which it will operate; and
- 4) Powerex has full corporate power and authority to buy, sell, or act as a marketer in the sale and exportation of electric energy as requested in the Application.



Jay Ratzlaff
Legal Counsel

EXHIBIT C

**Maps
(Not applicable)**

EXHIBIT D

Power of Attorney

IRREVOCABLE LIMITED POWER OF ATTORNEY

This IRREVOCABLE LIMITED POWER OF ATTORNEY is made October 21, 2008 by Powerex Corp. (the "Principal"), a corporation organized and existing under the *Business Corporations Act* of British Columbia, with its principal place of business at 666 Burrard Street, Suite 1400, Vancouver, British Columbia, Canada, V6C 2X8.

1. Appointment. The Principal does hereby appoint Mr. Paul W. Fox, whose principal place of business is at Bracewell & Giuliani, L.L.P., 111 Congress Avenue, Suite 2300, Austin, Texas, 78701, as the Principal's true and lawful agent and attorney-in-fact ("Attorney-in-fact") for the limited purpose hereinafter set out.
2. Scope of Authority. The Attorney-in-fact shall have the limited power and authority to receive service of process for any and all matters relating to Principal's reporting requirements to the Department of Energy pursuant to Principal's Authority to Transmit Electric Energy to Mexico.
3. Irrevocability. This Power of Attorney is irrevocable by the Principal.

IN WITNESS WHEREOF, the Principal has caused this Power of Attorney to be duly executed on the 21 day of October 2008.

Powerex Corp.

By: 

Name: Teresa Conway

Title: President and Chief Executive Officer

This instrument was acknowledged before me on the 21 day of October 2008 by Teresa Conway at Vancouver, BC.

By: 

Jay Ratzlaff

EXHIBIT E

**Statement of any Corporate Relationship or Existing Contract
which in any way Relates to Control or Fixing of Rates for the
Purchase, Sale or Transmission of Electric Energy**

(Not applicable)

EXHIBIT F

Operating Procedures Regarding Available Capacity and Energy

(Not applicable)